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## WAR LEGISLATION AGAINST ALCOHOLIC LIQUOR AND PROSTITUTION<sup>1</sup>

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It is my purpose to deliver a plain, unvarnished tale of the course of one phase of our war legislation. I bespeak your attention because I think that you may be most useful in furthering and rendering effective this legislation in your several states and communities. I realize that to many of you my remarks will convey but a slight amount of information, because their subject has been more or less in the public mind since early in the war—intimately related as it is to venereal disease, of all diseases the greatest cause of disability in wars, even, I regret to say, in the present one.

It has been said repeatedly that the three principal vices affecting an army are prostitution, drinking and gambling. There is a marked line of distinction, however, between the two former and the last in the matter of their effect upon the health of their victims. Doubtless for this reason gambling, while for aught I know it may come within the purview of *criminology*, has not, like prostitution and the furnishing of liquor to soldiers or sailors, been dignified by promotion into the category of *crime*.

Alcoholic liquor and prostitution were deemed by Congress of such importance in a military sense that sections with regard thereto were embodied in the Selective Draft Act of May 18, 1917, the charter, I may say, of the war army of the United States. By Section 12 of that act Congress authorized the President "to make such regulations governing the prohibition of alcoholic liquors in or near military camps and to the officers and enlisted men of the Army as he may from time to time deem necessary or advisable." The section also made it a misdemeanor to sell intoxicating liquor "to any officer or member of the military forces while in uniform," with exceptions not important to the purpose of this discussion. A violation of the section or regulations made thereunder was made punishable by a fine of not more than \$1,000 or imprisonment for not more than twelve months or both. Section 13 of the act directed the Secretary of War "during the present war to do everything by him deemed necessary to suppress

<sup>1</sup>Address before the Annual Meeting of the Institute of Criminal Law and Criminology, at Cleveland, August 26, 1918.

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and prevent the keeping or setting up of houses of ill fame, brothels, or bawdy houses within such distance as he may deem needful of any military camp, station, fort, post, cantonment, training, or mobilization place," and also made it a misdemeanor to receive for immoral purposes any person into any place, structure, or building used for the purpose of lewdness, assignation, or prostitution within such distance of places under military jurisdiction as might be designated. For a violation of this section or regulations made thereunder the same penalty was imposed as in the case of the section relating to alcoholic liquor.

The provisions of these two sections were extended to the naval establishment by the Act of October 6, 1917, the Secretary of the Navy, with regard to places under naval jurisdiction prescribed by the President, being given powers similar to those previously given to the Secretary of War with regard to military camps and posts. The naval act is in one respect more satisfactory than the military act. The provisions of the naval act with regard to intoxicating liquor as well as prostitution apply to any place under naval jurisdiction prescribed by the President. The provisions of the army law on the liquor question relate only to "camps," that is, military establishments having somewhat of a temporary character, whether as to the kind of shelter for the men stationed there or as to the nature of their occupancy of the quarters provided for them. On the subject of prostitution all military and naval stations alike, permanent or temporary, come within the terms of the law and regulations.

As I have said, the Secretaries were directed by the law to take measures to carry out its purpose, and among those measures was included the appointment of a Commission on Training Camp Activities in both the War and Navy Departments. The experience of Mr. Raymond B. Fosdick in matters of this character, in particular as the representative of the Secretary of War to investigate conditions during the Mexican border campaign of 1916, indicated his choice to undertake the task, and he was made chairman of both commissions. Mr. Baker, as Secretary of War and also as Chairman of the Council of National Defense, on May 26, 1917, eight days after the passage of the Draft Act, sent a letter to the governors of all the states and the chairmen of the state councils, notifying them of the appointment of the War Department Commission, calling their attention to the pertinent sections of the law, and affirming unmistakably the vital interest of the army in the matter. On August 10, 1917, shortly before the opening of the large cantonments, the Secretary wrote to the mayors

of all cities and the sheriffs of counties in their vicinity, reiterating the statement of the policy of the Department. He assured them that the existence of vice districts within an effective radius of the camps, even though too far away to be within the provisions of the federal regulations, would not be tolerated. In the early autumn of last year the work of carrying out the policy of the two Secretaries in the stimulation and co-ordination of the activities of federal and state officials in the enforcement of laws relating to alcoholic liquor and prostitution, so far as the army and navy are affected, was entrusted to a law enforcement division in the commissions of which I have already spoken. Surgeon General Gorgas, at the instance of Lt. Col. William F. Snow, General Secretary of the American Social Hygiene Association, because of the intimate connection of the work of this division with the greatest of the army's health problems, detailed to the army commission a number of non-medical officers of his staff, under the leadership of Major Bascom Johnson. In this manner a medium was provided for the furtherance by legislation and other methods of the war program on this subject.

It is to be noted that, with the exception of the case of the sale of liquor to men in uniform, the law has no effect outside of places under military or naval jurisdiction until put into operation by regulations made in certain cases by the President, in others by the Secretaries of War and of the Navy. Besides minor regulations on particular questions, there have been three successive sets of regulations relating to prostitution near military posts and the same number for naval stations, three sets of regulations relating to alcoholic liquors for the army and two sets of such regulations for the navy. The changes in these regulations are indicative of the progress made in the fight to maintain the efficiency of our military and naval forces. I shall, therefore, with your permission, trace them in some detail, treating first the question of alcoholic liquor, and then the question of prostitution.

The first regulations relating to alcoholic liquors for the army were issued on July 25, 1917. They dealt only with the situation within five miles of a military camp, and in the case of incorporated cities or towns within one-half mile of a camp. In the zone so described the sale, service, gift, and transportation of alcoholic liquor were forbidden, except to civilians in private homes. No prohibition of liquor to members of the military forces outside of the zones was put into effect by these regulations; so that beyond the immediate neighborhood of the camps men in the service could freely obtain liquor in any

other manner than by a sale to them while in uniform, which was made criminal by the law itself. The President has under the law two powers, (1) to prohibit alcoholic liquors "in or near military camps," (2) to prohibit alcoholic liquors "to the officers and enlisted men of the army." By the original regulations he exercised the first power and made the "dry" *zones*; he did not exercise the second power and make a "dry" *army*. While the regulations applied according to their terms to any military camp, they were restricted by a regulation of August 16, 1917, to camps for divisions of the army, as distinguished from smaller detachments, to officers' training camps, and to a few other designated classes of camps.

Operations were conducted under these regulations for about half a year, the second set of regulations being issued on January 26, 1918. These marked a great advance over the situation as it existed under their predecessors. The President exercised his power to prohibit alcoholic liquors to the officers and enlisted men of the Army, even outside the zones around the camps. It was made a crime to furnish liquor to a member of the military forces, whether by sale or otherwise, anywhere, save in the single case of members or guests of a family in a private home not within any "dry" zone. The new regulation on this subject was most effective in dealing with "bootleggers," as to whom it often could not be shown that they were sellers of liquor, or anything more than messengers of the soldiers or sailors for whom they purchased it. The question under the new regulations was no longer one of sale, but the much simpler one of delivery. The regulations added a number of classes of camps to those previously included, but the change in this respect was one of accretion, not of reconstruction; and the matter was still in an unscientific state. Camps with thousands of men in training for line service had no "dry" zones around them, because a division was not stationed there; while small camps with men in training for certain of the staff branches had "dry" zones around them.

The first Navy regulations under Section 12 of the Act were not promulgated until March 5, 1918. They were practically the same as the Army regulations, except for two great points of difference. The Army regulations apply to every camp satisfying their terms; the Navy regulations specify only eight (now nine) naval stations—in other words, there are only nine naval "dry" zones. The naval zones are, however, of a uniform width of five miles; while the Army zones, as I have said, include in incorporated towns with state or local

license of the sale of liquor no territory which is more than one-half mile from the camp.

The third (and present) set of Army regulations was made by the President and the Secretary of War on June 27th last. They mark a second great advance and substitute for the somewhat empirical form of the earlier regulations a more logical scheme.

There is now, or should be, a "dry" zone around every military camp where not less than two hundred and fifty men have been stationed for thirty consecutive days. If you know that the sale of liquor is still being carried on within the prescribed distance of such a camp, inform the United States Attorney and ask him to take action. Inform also the Commission on Training Camp Activities, and it will add the weight of the War Department's request to yours. Sometimes the question, "Is this post a camp?" is not a simple one, and before proceeding to destroy in the public interest businesses with large investments there have been delays until the United States Attorneys could obtain rulings from the Attorney General.

The new regulations make one other notable change. They make the Army "bone dry." None of you gentlemen, even in the privacy of your own homes, may give me a drink of intoxicating liquor, including beer, ale, and wine, without becoming a criminal.

The Navy Department regulations issued on the sixteenth of this month, to go into effect on the thirtieth, similarly provide for a "bone dry" Navy. In that Department, however, the policy has been retained of establishing "dry" zones, five miles in width, around certain specified naval stations, the number to be added to only as conditions demonstrate the advisability of such action. If you live in the neighborhood of a naval station where you think conditions peculiarly require the establishment of a "dry" zone, communicate to the Commission on Training Camp Activities your reasons for so thinking.

Let us turn now to the subject of prostitution, which is still more vitally important to the forces of the United States. It is, of course, one of the greatest problems of all times, and in many communities before the war presented the most flagrant exception to the enforcement of the law.

The first War Department regulations under Section 13 of the Draft Act, dated July 25, 1917, and the first Navy Department regulations, dated October 18, 1917, were to the same effect. They prohibited the keeping or setting up of homes of ill-fame within five miles of any military or naval station. It is a significant proof of the value

of this section of the Draft Act that it appears strange now that only keepers of brothels were dealt with by these regulations. So successful has the Government been in the elimination of "red light" districts, both under the federal law and by inducing action by states and municipalities, that it is a little difficult to realize that a year ago these places constituted the overshadowing menace to the health and efficiency of the forces of the United States.

As progress was made in abating the known breeding places of vice and disease, the shameful commerce which had been driven therefrom took refuge as far as it could in a more precarious *modus vivendi*. To meet the new situation and to combat better the clandestine business which always exists outside the restricted districts, new regulations were made by the Secretary of War and the Secretary of the Navy on January 17, 1918. These regulations employed to the utmost, within five miles of all military posts and naval stations, the powers granted to the Secretaries by Congress. They aimed at the suppression of all lewdness in "any place, structure, or building," and the Attorney General directed prosecutions for offenses committed in any "place," giving that word its usual signification in spite of its juxtaposition to the narrower terms "structure or building." In particular the regulations prohibited directing, taking, or transporting for immoral purposes, and so brought under the ban of the law the nefarious activities of taxicab drivers and other procurers of lewd women, now rendered harder to find by being expelled from their former tolerated resorts.

You will have observed that the Act of Congress somewhat confined the scope of the regulations. It referred throughout to places, when the evil aimed at was a practice. The defect was remedied by Chapter XIV of the Army Appropriation Act of July 9, 1918. By it the powers of the Secretaries were extended so that they could suppress all prostitution within a reasonable distance of military and naval stations.

I confess that I could wish that Congress would go further still. Under the liquor law it is a crime not merely to supply liquor within the zones around the camps, but to supply liquor to a soldier or sailor anywhere in the United States. Why handle more gingerly the graver danger? Why not make it a crime to commit fornication with a soldier or sailor anywhere? Some of the state legislatures have made it a felony for a woman, knowing herself to have an infectious venereal disease, to engage in sexual intercourse with a member of the military or naval forces. But there is in the way the natural

hesitation of a jury to brand the woman as a felon, and there is the *scienter* to be proved. We have Year Book authority for it that "the devil knoweth not the mind of a man"—how much less of a woman! When medical examinations show that eighty to ninety per cent. of the prostitutes arrested during the war have one or more venereal diseases, and the so-called "charity girl," pursuing the avocation for erotic, not meretricious, reasons, is even more notably a disease carrier, I submit that the federal law, in cases where soldiers and sailors are concerned, should make up for the deficiencies of those state laws which do not punish fornication.

But this is a digression. What is the present law? Secretaries Baker and Daniels on the third day of this month issued regulations to suppress all prostitution and the aiding or abetting thereof in any way within *ten* miles of any military or naval station. The doubling of the width of the zone of course increases its area in geometrical progression. No vested rights were disturbed by the extension of the zones under this section of the Act. The extension made them include many cities which were distant between five and ten miles from large camps. It was not because of flagrant conditions in these cities that the zones were extended. Prostitution is a *hydra*; however repressed, it will still to some extent continue in our day at least. If the arm of the federal, as well as the state, law is ready to strike at it, it is less likely to show a head in the neighborhood of military and naval stations.

I shall trespass upon your patience but a little longer, though I have told but half the tale, and that the more obvious half. This nation is based upon a union of sovereign states; and in spite of the great war powers of Congress and of the President there is much legislation, useful in the prosecution of the war, that can be more scientifically and more satisfactorily enacted by states or municipalities than by the Federal Government. Even in the part of the field covered by Sections 12 and 13 of the Draft Act, it has sometimes been found desirable to supplement the federal regulations. These regulations are made to meet the usual situation, and state or local enactments, based upon the will of the representatives of the very community in question, are often best for particular cases. The Secretaries of War and of the Navy have recognized this, and through the Commissions on Training Camp Activities have advocated successfully the passage of a very large number of state laws and a still larger number of municipal ordinances. While it would be a task not possible of accomplishment within the limits of this address to analyze

this legislation or to indicate the differences in various localities *nominatim*, I shall briefly state the character of the more common instances of it.

State legislatures have passed laws establishing around camps and other places where war work is being done "dry" zones of a greater extent than that prescribed by the President. Municipal councils have aimed at the "bootlegging" evil by prohibiting the sale at retail of liquor to be consumed off the premises of the seller, or surrounding it with safeguards to prevent its ultimately reaching soldiers or sailors. Frequently like action has been taken voluntarily by associations of liquor dealers.

In the matter of prostitution far-reaching state and municipal legislation has been enacted. The importance thereof cannot be overestimated. Five-sixths of the cases of venereal disease in the military forces in the United States were contracted before the patients entered the Army. To reduce the loss of time precious for training purposes, to relieve the strain upon the men and resources of the Medical Department involved in the necessity of treating these infected draftees, something must be done to attack the trouble at its source throughout the entire country, and not merely in the neighborhood of military posts.

Accordingly, nearly every legislature which has met this year in a state not already having the so-called Injunction and Abatement Law on its statute books has enacted such a law, giving to any citizen the power to maintain a civil proceeding to close a house of prostitution. State legislatures and municipal councils have passed laws and ordinances regulating lodging houses with a view to prevent assignation and prostitution therein. Upon many statute books and ordinance books have been written for the first time adequate laws to punish the solicitation for immoral purposes which once disgraced the city streets and the automobile business which enabled the persons plying the trade to disgrace the country lanes.

The method of this legislation I cannot go into now, but I will say merely that it has often employed to good effect the plan of making a license to carry on business revocable in case of a conviction for violating the law.

I do not mean to convey the idea that this legislation can be expected completely to put an end to the cause of venereal disease and so eradicate the disease itself. The War and the Navy Departments have been deluded by no such mirage. And so, *pari passu* with the

legislation which I have mentioned, the Surgeons General of the Army, the Navy, and the Public Health Service have induced legislatures and boards of health to make cases of venereal disease reportable and quarantinable in the same manner as cases of other communicable diseases.

Untiring endeavor has been put forth to make all this legislation, both federal and state, effective; and a very natural result has been that large numbers of persons, mostly women, formerly at large, have been restrained of their liberty by the action of police and judicial and health officers. The places where they might be confined and their diseases might be treated proved inadequate, and many states and communities concerned were unable financially to cope with a problem thus suddenly thrust on them for their own good and the Army's and Navy's good by the Federal Government. The Commission on Training Camp Activities, which was already to the extent of its power, with the Red Cross and the Public Health Service, taking care of these delinquents, obtained last spring from the President's emergency fund an allotment of \$250,000 to aid the states to establish detention houses near the camps and state reformatories for women. The Army Appropriation Act of last month, besides appropriations amounting to \$3,100,000 for other means of combating venereal diseases, provided \$1,000,000 for this particular work, of which Mrs. Falconer will speak to you with more authority and at greater length and in better fashion than can I.

A rational being can hardly give his adherence to Pope's dictum that "whatever is right;" and it may be that some here will not let this legislation pass without a challenge as to its value.

I would remind such persons that it is becoming increasingly apparent that this war will be won by man power. Our Army before the war would admit no man suffering from venereal disease. Such a rule is impossible now. Omit from the venereal disease statistics of the Army the cases contracted before entering the service, and the percentage of non-effectives from the greatest cause of disability among men in training is now only a very small fraction of the percentage before the war. Is that worth while? But let us go further. Not only will the war be won by *man* power; it will be won by *man power*. Morale has somewhat to do with the decision of battles and the fate of nations. Permit me to ask you to go back in your minds to the dark ages—let us say, two years since. Conditions around the camps on the Mexican border in 1916 were deplorable, disreputable. But there was one exception. Major General O'Ryan, commanding

the New York National Guard, would tolerate no vice in the vicinity of its camp. Not only was the health of his men markedly superior to that of other contingents, but there was an *esprit de corps* among them which could not escape the observer, and which was summed up in their own proud comment, "We are a clean bunch." "Clean bunches" are being sent to General Pershing on every transport, and who will say that they are not the better fitted to save democracy, in spirit as well as in body, because one hundred vice districts have been abolished and many another precaution has been taken to send them over as "clean bunches"? *Mens sana in corpore sano.*

I am firmly convinced that no other policy will produce the most effective forces for land and sea and sky—an Army and a Navy which shall renew their strength; which shall mount up with wings as eagles; which shall run, and not be weary; and which shall walk, and not faint.